

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**FIRESTAR SOFTWARE, Inc., a Delaware  
Corporation**

**Plaintiff,**

**v.**

**RED HAT, INC., a Delaware Corporation,  
and RED HAT MIDDLEWARE LLC, a  
Delaware Limited Liability Company,**

**Defendants.**

Civil Action No. 2-06CV-258 (TJW)

**JURY TRIAL DEMANDED**

**FOURTH AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement of U.S. Patent No. 6,101,502 (hereinafter “the ’502 patent”). This patent relates to a method for interfacing an object oriented software application with a relational database to facilitate access to the relational database. A copy of the ’502 patent is attached as Exhibit A hereto.

2. This action arises under the patent laws of the United States, 35 U.S.C. § 1, et seq.

**PARTIES**

3. Plaintiff Firestar Software, Inc. (“Firestar”) is a Delaware corporation with its principal place of business at 80 Central Street, Boxborough, MA 01719.

4. On information and belief, Defendant Red Hat, Inc. (“Red Hat”) is a Delaware corporation with its principal place of business located at 1801 Varsity Drive, Raleigh, NC 27606. Red Hat has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 as its agent for service of process.

5. On information and belief, Defendant Red Hat Middleware LLC (“Red Hat Middleware”) is a Delaware limited liability company and a wholly owned subsidiary of Red Hat, Inc. Red Hat Middleware has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 as its agent for service of process.

**JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, each Defendant has transacted business in this district, and/or has committed and/or induced acts of patent infringement in this district.

8. On information and belief defendants are engaged in the marketing, use, distribution and support of infringing products in this Judicial District. In addition, defendants have purposefully availed themselves of the laws of the State of Texas, such as to make themselves subject to the jurisdiction of the Court by committing acts of infringement in this Judicial District, soliciting business in this Judicial District and otherwise engaging in a persistent course of conduct in this Judicial district.

**GENERAL ALLEGATIONS**

9. FireStar is a software company specializing in the development and support of complete interface solutions for automating business transactions between companies and their clients.

10. On August 8, 2000, United States Patent 6,101,502 (the ‘502 patent) on an invention entitled “Object Model Mapping And Runtime Engine for Employing Relational Database With Object Oriented Software” was duly and legally issued by the United States

Patent and Trademark Office. A true and correct copy of the '502 patent is attached as Exhibit A of this Complaint.

11. FireStar was assigned all right, title and interest in and to the '502 patent and is the lawful owner of all rights, title and interest in the '502 patent.

12. FireStar distributes at least one product that incorporates and uses technology that is covered by the '502 patent.

13. On May 26, 2006, FireStar sent a letter to JBoss, Inc. ("JBoss") advising it that the marketing, distribution, use of and continuing offer to provide support services for JBoss' Hibernate 3.0 software constitutes an infringement of one or more claims of the '502 patent.

14. On June 5, 2006, Red Hat, Inc. issued a press release stating that JBoss had been acquired by, and became a division of, Red Hat, Inc.

15. On information and belief Red Hat acquired JBoss as a wholly owned subsidiary.

16. On information and belief Red Hat transferred ownership of JBoss to DaVinci - Matterhorn LLC aka Merger LLC.

17. On information and belief, DaVinci-Matterhorn LLC aka Merger LLC was wholly owned by Red Hat and subsequently transferred ownership to defendant Red Hat Middleware, LLC.

18. Red Hat Middleware, LLC. is a wholly owned subsidiary of Red Hat, Inc.

19. On June 7, 2006, FireStar sent a letter to Red Hat, Inc. notifying it that the marketing, distribution, use of and continuing offer to provide support services for Hibernate 3.0 software constituted infringement of the '502 patent.

20. Upon information and belief Red Hat, Inc. and Red Hat Middleware, Inc. have continued the marketing, distribution, use of and offer to provide support services for Hibernate 3.0 software since acquiring JBoss.

**INFRINGEMENT OF U.S. PATENT NO. 6,101,502**

21. Each allegation contained in paragraphs 10-20 above is incorporated by reference herein.

22. Defendants have been and currently are infringing, inducing, or contributing to the infringement of one or more claims of the '502 patent, literally and under the Doctrine of Equivalents, by marketing, distributing, using and offering to provide support services for Hibernate 3.X software alone or in combination with Hibernate development tools and/or the Hibernate Toolset in violation of 35 U.S.C. Section 271.

23. Defendants have been and currently are infringing, inducing, or contributing to the infringement of one or more claims of the '502 patent, literally and under the Doctrine of Equivalents, by marketing, distributing, using and offering to provide support services for Hibernate 2.X software alone or in combination with Hibernate development tools and/or the Hibernate Toolset in violation of 35 U.S.C. Section 271.

24. Defendants have been and currently are infringing, inducing, or contributing to the infringement of one or more claims of the '502 patent, literally and under the Doctrine of Equivalents, by marketing, distributing, using and offering to provide support services for JBoss Enterprise Middleware in violation of 35 U.S.C. Section 271.

25. On information and belief, on February 12, 2008, a website was launched by Defendants, at [seamframework.org](http://seamframework.org). The website “runs on Seam Wiki, an open source wiki/blog/forum/FAQ engine built using Seam and Hibernate.”

26. Defendants have been and are now directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '502 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by methods practiced on various websites (including, but not limited to, [www.seamframework.org](http://www.seamframework.org)) that practice one or

more claims of the '502 patent to the injury of Firestar. Defendants are thus liable for infringement of the '502 Patent pursuant to 35 U.S.C. § 271.

27. Defendants will continue to infringe, induce or contribute to the infringement of the claims of the '502 patent unless enjoined by this court.

28. Defendants have had actual notice that the marketing, distribution, use of and continuing offer to provide support services for Hibernate software are covered by the '502 patent.

29. FireStar has been damaged and has suffered irreparable injury due to the acts of infringement by defendants and will continue to suffer irreparable injury unless defendants' activities are enjoined.

30. FireStar has suffered and will continue to suffer substantial damages by reason of defendants' acts of patent infringement as alleged above, and FireStar is entitled to recover from defendants the damages sustained as a result of defendants' acts.

31. Defendants have willfully and deliberately infringed, induced and/or contributed to infringement of the '502 patent with full knowledge and wanton disregard of plaintiff's rights thereunder, rendering this an exceptional case within the meaning of 35 U.S.C. § 285.

**PRAAYER FOR RELIEF**

**WHEREFORE**, plaintiff FireStar prays that the Court enter judgment

- a In favor of FireStar and against defendants on all of FireStar's claims;
- b That defendants have infringed the '502 patent;
- c That defendants have induced infringement and/or contributorily infringed the '502 patent;
- d Permanently enjoining defendants and their officers, directors, employees, agents, licensees, servants, successors and assigns, and any and all persons

acting in privity or in concert with them, from infringing, or inducing or contributing to infringement of, the '502 patent;

e That all infringing materials be impounded or destroyed;

f For an award to plaintiff FireStar of damages adequate to compensate it for defendants' acts of infringement of the '502 patent complained of herein;

g For interest on said damages at the legal rate for and after the date such damages were incurred;

h That defendants' infringement was willful;

i For an award trebling damages against defendants for their willful infringement of the '502 patent;

j Ordering defendants to pay plaintiff FireStar its reasonable attorneys' fees of this action;

k Ordering defendants to pay plaintiff FireStar any and all costs of this action; and

l Granting to plaintiff FireStar such other and further relief as it may deem just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues triable of right by a jury.

Dated: March 13, 2008

Respectfully submitted,

**FIRESTAR SOFTWARE, INC.**

By: /Patrick R. Anderson

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**ATTORNEYS FOR PLAINTIFF  
FIRESTAR SOFTWARE, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 13th day of March 2008.

*/s/ Patrick R. Anderson*  
Patrick R. Anderson